

CHAPTER VI
LEAD-BASED PAINT

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(b) Notwithstanding paragraph (a) of this section, a purchaser may waive the opportunity to conduct the risk assessment or inspection by so indicating in writing.

(Approved by the Office of Management and Budget under control number 2070-0151)

[61 FR 9082, Mar. 6, 1996, as amended at 64 FR 14382, Mar. 25, 1999]

§ 35.92 Certification and acknowledgment of disclosure.

(a) *Seller requirements.* Each contract to sell target housing shall include an attachment containing the following elements, in the language of the contract (e.g., English, Spanish):

(1) A Lead Warning Statement consisting of the following language:

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

(2) A statement by the seller disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being sold or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The seller shall also provide any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(3) A list of any records or reports available to the seller pertaining to lead-based paint and/or lead-based

paint hazards in the housing that have been provided to the purchaser. If no such records or reports are available, the seller shall so indicate.

(4) A statement by the purchaser affirming receipt of the information set out in paragraphs (a)(2) and (a)(3) of this section and the lead hazard information pamphlet required under section 15 U.S.C. 2696.

(5) A statement by the purchaser that he/she has either:

(i) Received the opportunity to conduct the risk assessment or inspection required by § 35.90(a); or

(ii) Waived the opportunity.

(6) When any agent is involved in the transaction to sell target housing on behalf of the seller, a statement that:

(i) The agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d; and

(ii) The agent is aware of his/her duty to ensure compliance with the requirements of this subpart.

(7) The signatures of the sellers, agents, and purchasers, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature.

(b) *Lessor requirements.* Each contract to lease target housing shall include, as an attachment or within the contract, the following elements, in the language of the contract (e.g., English, Spanish):

(1) A Lead Warning Statement with the following language:

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

(2) A statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The lessor shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis

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(0.8 square meters) per residential property.

Sponsor means mortgagor (borrower).

Subrecipient means any nonprofit organization selected by the grantee or participating jurisdiction to administer all or a portion of the Federal rehabilitation assistance or other non-rehabilitation assistance, or any such organization selected by a subrecipient of the grantee or participating jurisdiction. An owner or developer receiving Federal rehabilitation assistance or other assistance for a residential property is not considered a subrecipient for the purposes of carrying out that project.

Standard treatments means a series of hazard reduction measures designed to reduce all lead-based paint hazards in a dwelling unit without the benefit of a risk assessment or other evaluation.

Substrate means the material directly beneath the painted surface out of which the components are constructed, including wood, drywall, plaster, concrete, brick or metal.

Target housing means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless a child of less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any zero-bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, HUD may designate an earlier date.

Tenant means the individual named as the lessee in a lease, rental agreement or occupancy agreement for a dwelling unit.

Visual assessment means looking for, as applicable:

- (1) Deteriorated paint;
- (2) Visible surface dust, debris and residue as part of a risk assessment or clearance examination; or
- (3) The completion or failure of a hazard-reduction measure.

Wet sanding or wet scraping means a process of removing loose paint in which the painted surface to be sanded or scraped is kept wet to minimize the dispersal of paint chips and airborne dust.

Window trough means the area between the interior window sill (stool) and the storm window frame. If there is

no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered.

Worksite means an interior or exterior area where lead-based paint hazard reduction activity takes place. There may be more than one worksite in a dwelling unit or at a residential property.

Zero-bedroom dwelling means any residential dwelling in which the living areas are not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory or single room occupancy housing, military barracks, and rentals of individual rooms in residential dwellings (see Single room occupancy (SRO)).

§35.115 Exemptions.

(a) Subparts B through R of this part do not apply to the following:

(1) A residential property for which construction was completed on or after January 1, 1978, or, in the case of jurisdictions which banned the sale or residential use of lead-containing paint prior to 1978, an earlier date as HUD may designate (see §35.160).

(2) A zero-bedroom dwelling unit, including a single room occupancy (SRO) dwelling unit.

(3) Housing for the elderly, or a residential property designated exclusively for persons with disabilities; except this exemption shall not apply if a child less than age 6 resides or is expected to reside in the dwelling unit (see definitions of "housing for the elderly" and "expected to reside" in §35.110).

(4) Residential property found not to have lead-based paint by a lead-based paint inspection conducted in accordance with §35.1320(a) (for more information regarding inspection procedures consult the 1997 edition of Chapter 7 of the HUD Guidelines). Results of additional test(s) by a certified lead-based paint inspector may be used to confirm or refute a prior finding.

(5) Residential property in which all lead-based paint has been identified, removed, and clearance has been achieved in accordance with 40 CFR 745.227(b)(e) before September 15, 2000, or in accordance with §§35.1320, 35.1325 and 35.1340 on or after September 15,

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2000. This exemption does not apply to residential property where enclosure or encapsulation has been used as a method of abatement.

(6) An unoccupied dwelling unit or residential property that is to be demolished, provided the dwelling unit or property will remain unoccupied until demolition.

(7) A property or part of a property that is not used and will not be used for human residential habitation, except that spaces such as entryways, hallways, corridors, passageways or stairways serving both residential and non-residential uses in a mixed-use property shall not be exempt.

(8) Any rehabilitation that does not disturb a painted surface.

(9) For emergency actions immediately necessary to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage (such as when a property has been damaged by a natural disaster, fire, or structural collapse), occupants shall be protected from exposure to lead in dust and debris generated by such emergency actions to the extent practicable, and the requirements of subparts B through R of this part shall not apply. This exemption applies only to repairs necessary to respond to the emergency. The requirements of subparts B through R of this part shall apply to any work undertaken subsequent to, or above and beyond, such emergency actions.

(10) If a Federal law enforcement agency has seized a residential property and owns the property for less than 270 days, §§35.210 and 35.215 shall not apply to the property.

(11) The requirements of subpart K of this part do not apply if the assistance being provided is emergency rental assistance or foreclosure prevention assistance, provided that this exemption shall expire for a dwelling unit no later than 100 days after the initial payment or assistance.

(12) Performance of an evaluation or lead-based paint hazard reduction or lead-based paint abatement on an exterior painted surface as required under this part may be delayed for a reasonable time during a period when weather

conditions are unsuitable for conventional construction activities.

(13) Where abatement of lead-based paint hazards or lead-based paint is required by this part and the property is listed or has been determined to be eligible for listing in the National Register of Historic Places or contributing to a National Register Historic District, the designated party may, if requested by the State Historic Preservation Office, conduct interim controls in accordance with §35.1330 instead of abatement. If interim controls are conducted, ongoing lead-based paint maintenance and reevaluation shall be conducted as required by the applicable subpart of this part in accordance with §35.1355.

(b) For the purposes of subpart C of this part, each Federal agency other than HUD will determine whether appropriations are sufficient to implement this rule. If appropriations are not sufficient, subpart C of this part shall not apply to that Federal agency. If appropriations are sufficient, subpart C of this part shall apply.

§35.120 Options.

(a) *Standard treatments.* Where interim controls are required by this part, the designated party has the option to presume that lead-based paint or lead-based paint hazards or both are present throughout the residential property. In such a case, evaluation is not required. Standard treatments shall then be conducted in accordance with §35.1335 on all applicable surfaces, including soil. Standard treatments are completed only when clearance is achieved in accordance with §35.1340.

(b) *Abatement.* Where abatement is required by this part, the designated party may presume that lead-based paint or lead-based paint hazards or both are present throughout the residential property. In such a case, evaluation is not required. Abatement shall then be conducted on all applicable surfaces, including soil, in accordance with §35.1325, and completed when clearance is achieved in accordance with §35.1340. This option is not available in public housing, where inspection is required.

(c) *Lead hazard screen.* Where a risk assessment is required, the designated

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party may choose first to conduct a lead hazard screen in accordance with § 35.1320(b). If the results of the lead hazard screen indicate the need for a full risk assessment (e.g., if the environmental measurements exceed levels established for lead hazard screens in § 35.1320(b)(2)), a complete risk assessment shall be conducted. Environmental samples collected for the lead hazard screen may be used in the risk assessment. If the results of the lead hazard screen do not indicate the need for a follow-up risk assessment, a risk assessment is not required.

(d) *Paint testing.* Where paint stabilization or interim controls of deteriorated paint surfaces are required by this rule, the designated party has the option to conduct paint testing of all surfaces with non-intact paint. If paint testing indicates the absence of lead-based paint on a specific surface, paint stabilization or interim controls are not required on that surface.

§ 35.125 Notice of evaluation and hazard reduction activities.

The following activities shall be conducted if notice is required by subparts D and F through M of this part.

(a) *Notice of evaluation or presumption.* When evaluation is undertaken and lead-based paint or lead-based paint hazards are found to be present, or if a presumption is made that lead-based paint or lead-based paint hazards are present in accordance with the options described in § 35.120, the designated party shall provide a notice to occupants within 15 calendar days of the date when the designated party receives the report or makes the presumption.

(1) The notice of the evaluation shall include:

(i) A summary of the nature, scope and results of the evaluation;

(ii) A contact name, address and telephone number for more information, and to obtain access to the actual evaluation report; and

(iii) The date of the notice.

(2) The notice of presumption shall include:

(i) The nature and scope of the presumption;

(ii) A contact name, address and telephone number for more information; and

(iii) The date of the notice.

(b) *Notice of hazard reduction activity.* When hazard reduction activities are undertaken, each designated party shall:

(1) Provide a notice to occupants no more than 15 calendar days after the hazard reduction activities have been completed. Notice of hazard reduction shall include, but not be limited to:

(i) A summary of the nature, scope and results (including clearance), of the hazard reduction activities.

(ii) A contact name, address and telephone number for more information; and

(iii) Available information on the location of any remaining lead-based paint in the rooms, spaces or areas where hazard reduction activities were conducted, on a surface-by-surface basis;

(2) Update the notice, based on re-evaluation of the residential property and as any additional hazard reduction work is conducted.

(c) *Availability of notices of evaluation, presumption, and hazard reduction activities.* (1) The notices of evaluation, presumption, and hazard reduction shall be of a size and type that is easily read by occupants.

(2) To the extent practicable, each notice shall be made available, upon request, in a format accessible to persons with disabilities (e.g., Braille, large type, computer disk, audio tape).

(3) Each notice shall be provided in the occupants' primary language or in the language of the occupants' contract or lease.

(4) The designated party shall provide each notice to the occupants by:

(i) Posting and maintaining it in centrally located common areas and distributing it to any dwelling unit if necessary because the head of household is a person with a known disability; or

(ii) Distributing it to each occupied dwelling unit affected by the evaluation, presumption, or hazard reduction activity or serviced by common areas in which an evaluation, presumption or hazard reduction has taken place.

§ 35.130**§ 35.130 Lead hazard information pamphlet.**

If provision of a lead hazard information pamphlet is required in subparts D and F through M of this part, the designated party shall provide to each occupied dwelling unit to which subparts D and F through M of this part apply, the lead hazard information pamphlet developed by EPA, HUD and the Consumer Product Safety Commission pursuant to section 406 of the Toxic Substances Control Act (15 U.S.C. 2686), or an EPA-approved alternative; except that the designated party need not provide a lead hazard information pamphlet if the designated party can demonstrate that the pamphlet has already been provided in accordance with the lead-based paint notification and disclosure requirements at § 35.88(a)(1), or 40 CFR 745.107(a)(1) or in accordance with the requirements for hazard education before renovation at 40 CFR part 745, subpart E.

§ 35.135 Use of paint containing lead.

(a) *New use prohibition.* The use of paint containing more than 0.06 percent dry weight of lead on any interior or exterior surface in federally owned housing or housing receiving Federal assistance is prohibited. As appropriate, each Federal agency shall include the prohibition in contracts, grants, cooperative agreements, insurance agreements, guaranty agreements, trust agreements, or other similar documents.

(b) *Pre-1978 prohibition.* In the case of a jurisdiction which banned the sale or residential use of lead-containing paint before 1978, HUD may designate an earlier date for certain provisions of subparts D and F through M of this part.

§ 35.140 Prohibited methods of paint removal.

The following methods shall not be used to remove paint that is, or may be, lead-based paint:

- (a) Open flame burning or torching.
- (b) Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.
- (c) Abrasive blasting or sandblasting without HEPA local exhaust control.

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(d) Heat guns operating above 1100 degrees Fahrenheit or charring the paint.

(e) Dry sanding or dry scraping, except dry scraping in conjunction with heat guns or within 1.0 ft. (0.30 m.) of electrical outlets, or when treating defective paint spots totaling no more than 2 sq. ft. (0.2 sq. m.) in any one interior room or space, or totaling no more than 20 sq. ft. (2.0 sq. m.) on exterior surfaces.

(f) Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission at 16 CFR 1500.3, and/or a hazardous chemical in accordance with the Occupational Safety and Health Administration regulations at 29 CFR 1910.1200 or 1926.59, as applicable to the work.

§ 35.145 Compliance with Federal laws and authorities.

All lead-based paint activities, including waste disposal, performed under this part shall be performed in accordance with applicable Federal laws and authorities. For example, such activities are subject to the applicable environmental review requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the Toxic Substances Control Act, Title IV (15 U.S.C. 2860 *et seq.*), and other environmental laws and authorities (see, e.g., laws and authorities listed in § 50.4 of this title).

§ 35.150 Compliance with other State, tribal, and local laws.

(a) *HUD responsibility.* If HUD determines that a State, tribal or local law, ordinance, code or regulation provides for evaluation or hazard reduction in a manner that provides a comparable level of protection from the hazards of lead-based paint poisoning to that provided by the requirements of subparts B, C, D, F through M and R of this part and that adherence to the requirements of subparts B, C, D, F through M, and R of this part, would be duplicative or otherwise cause inefficiencies, HUD may modify or waive some or all of the requirements of the subparts in a manner that will promote efficiency

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§ 35.915 Calculating rehabilitation costs, except for the CILP Program.

(a) *Applicability.* This section applies to recipients of Federal rehabilitation assistance, except for CILP recipients, for which § 35.920 applies.

(b) *Rehabilitation assistance.* (1) Lead-based paint requirements for rehabilitation fall into three categories which depend on the amount of rehabilitation assistance provided. The three categories are:

(i) Assistance of up to and including \$5,000 per unit;

(ii) Assistance of more than \$5,000 per unit up to and including \$25,000 per unit; and

(iii) Assistance of more than \$25,000 per unit.

(2) For purposes of implementing §§ 35.930-35.935, the amount of rehabilitation assistance is the average per unit amount of Federal funds for the hard costs of rehabilitation, excluding lead-based paint hazard evaluation and hazard reduction activities. Costs of site preparation, occupant protection, relocation, interim controls, abatement, clearance and waste handling attributable to lead-based paint hazard reduction are not to be included in the hard costs of rehabilitation.

(c) *Calculating rehabilitation assistance.* For a residential property that includes both federally assisted and non-assisted units, the rehabilitation costs of non-assisted units are not included in the calculation.

(1) The average cost of rehabilitation for the assisted units is calculated as follows:

Per Unit Rehabilitation \$ = (a/c) + (b/d)
Where:

a = Federal Rehabilitation Assistance for all assisted units

b = Federal Rehabilitation Assistance for common areas and exterior painted surfaces

c = Number of federally assisted units

d = Total number of units

(2) Eight out of 10 dwelling units in a residential property receive Federal rehabilitation assistance. The total amount of Federal rehabilitation assistance for the dwelling units is \$90,000, and the total amount of Federal rehabilitation assistance for the common areas and exterior surfaces is \$10,000. Based on the formula above,

the average per unit amount of Federal rehabilitation assistance is \$12,250. This is illustrated as follows: \$12,250 = (\$90,000/8) + (\$10,000/10).

§ 35.920 Calculating rehabilitation costs for the Flexible Subsidy-CILP program.

All dwelling units and common areas in a residential property are considered to be assisted under the CILP program. The cost of rehabilitation is calculated as follows:

Per Unit Rehab \$ = Federal Rehab Assistance / Total Number of Units.

§ 35.925 Examples of determining applicable requirements.

The following examples illustrate how to determine whether the requirements of §§ 35.930(b), (c), or (d) apply to a dwelling unit receiving Federal rehabilitation assistance (dollar amounts are on a per unit basis):

(a) If the total amount of Federal assistance for a dwelling is \$2,000, and the hard costs of rehabilitation are \$10,000, the lead-based paint requirements would be those described in § 35.930(b), because Federal rehabilitation assistance is up to and including \$5,000.

(b) If the total amount of Federal assistance for a dwelling unit is \$6,000, and the hard costs of rehabilitation are \$2,000, the lead-based paint requirements would be those described in § 35.930(b). Although the total amount of Federal dollars is more than \$5,000, only the \$2,000 of that total can be applied to rehabilitation. Therefore, the Federal rehabilitation assistance is \$2,000 which is not more than \$5,000.

(c) If the total amount of Federal assistance for a unit is \$6,000, and the hard costs of rehabilitation are \$6,000, the lead-based paint requirements are those described in § 35.930(c), because the amount of Federal rehabilitation assistance is more than \$5,000 but not more than \$25,000.

§ 35.930 Evaluation and hazard reduction requirements.

(a) *Paint testing.* The grantee, participating jurisdiction, or CILP recipient shall either perform paint testing on the painted surfaces to be disturbed or replaced during rehabilitation activities, or presume that all these painted

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disturb painted surfaces of a total area more than that set forth in § 35.1350(d)

§ 35.1345 Occupant protection and worksite preparation.

This section establishes procedures for protecting dwelling unit occupants and the environment from contamination from lead-contaminated or lead-containing materials during hazard reduction activities.

(a) *Occupant protection.* (1) Occupants shall not be permitted to enter the worksite during hazard reduction activities (unless they are employed in the conduct of these activities at the worksite), until after hazard reduction work has been completed and clearance, if required, has been achieved.

(2) Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, except if:

(i) Treatment will not disturb lead-based paint, dust-lead hazards or soil-lead hazards;

(ii) Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes and other openings in or near the worksite are sealed during hazard control work and cleaned afterward, and entry free of dust-lead hazards, soil-lead hazards, and debris is provided;

(iii) Treatment of the interior will be completed within one period of 8-day-time hours, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards (e.g., exposed live electrical wiring, release of toxic fumes, or on-site disposal of hazardous waste); or

(iv) Treatment of the interior will be completed within 5 calendar days, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, treatment does not create other safety, health or environmental hazards; and, at the end of work on each day, the worksite and the area within at least 10 feet (3 meters) of the containment area is cleaned to remove any visible dust or debris, and occupants have safe access to sleeping

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areas, and bathroom and kitchen facilities.

(3) The dwelling unit and the worksite shall be secured against unauthorized entry, and occupants' belongings protected from contamination by dust-lead hazards and debris during hazard reduction activities. Occupants' belongings in the containment area shall be relocated to a safe and secure area outside the containment area, or covered with an impermeable covering with all seams and edges taped or otherwise sealed.

(b) *Worksite preparation.* (1) The worksite shall be prepared to prevent the release of leaded dust, and contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris shall be used during worksite preparation.

(2) A warning sign shall be posted at each entry to a room where hazard reduction activities are conducted when occupants are present; or at each main and secondary entryway to a building from which occupants have been relocated; or, for an exterior hazard reduction activity, where it is easily read 20 feet (6 meters) from the edge of the hazard reduction activity worksite. Each warning sign shall be as described in 29 CFR 1926.62(m), except that it shall be posted irrespective of employees' lead exposure and, to the extent practicable, provided in the occupants' primary language.

§ 35.1350 Safe work practices.

(a) *Prohibited methods.* Methods of paint removal listed in § 35.140 shall not be used.

(b) *Occupant protection and worksite preparation.* Occupants and their belongings shall be protected, and the worksite prepared, in accordance with § 35.1345.

(c) *Specialized cleaning.* After hazard reduction activities have been completed, the worksite shall be cleaned using cleaning methods, products, and devices that are successful in cleaning up dust-lead hazards, such as a HEPA vacuum or other method of equivalent efficacy, and lead-specific detergents or equivalent.

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- (11) Other conditions revealed by any means which would warrant suspension or revocation.
- (b) Suspension or revocation and an appeal of any suspension or revocation shall be conducted in compliance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (c) Prior to suspension or revocation, an accredited or provisionally accredited training provider will be given an opportunity, except in the case of willful violation or threat to public health and safety, to remedy deficiencies that may result in suspension or revocation.
- (1) The accredited or provisionally accredited training provider shall be given a statement which includes the Department's findings, an explanation of what the accredited or provisionally accredited training provider shall do to comply with the regulations, and the time period in which the accredited or provisionally accredited training provider shall act.
 - (2) The accredited or provisionally accredited training provider shall remedy the deficiencies within a reasonable time specified by the Department which shall be no more than 30 calendar days after the issuance date of the statement of deficiencies.
- (d) A training provider shall not offer course training when accreditation, provisional accreditation, or DHS course approval is suspended or revoked, except, the Department, at its discretion, may permit the training provider to continue to offer training to students already enrolled. If training is not permitted to continue, a refund of all tuition and other charges shall be provided to students already enrolled, if applicable.

Note: Authority cited: Sections 100275, 105250, and 124160, Health and Safety Code. Reference: Sections 100275, 105250, and 124160, Health and Safety Code.

Article 13. Eligibility Requirements and Application Procedures for Certification or Interim Certification.

§35081. Representation of Certification Status

Unless certified pursuant to the requirements of this chapter, no person shall represent themselves as, or do business as, a certified lead-inspector/assessor, certified lead project designer, certified lead project monitor, certified lead supervisor, or certified lead worker.

Note: Authority cited: Sections 105250 (a) and (b), and 124160 (b), Health and Safety Code. Reference: Sections 16240 and 17200, Business and Professions Code.

(29) Amend Section 35082 to read:

§35082. Application Timeliness.

- (a) Applicants for certification or interim certification shall apply to the Department within one year from the issuance date of DHS Form 8493 (12/97), Course Completion Form.
- (b) Applicants failing to apply within one year from the issuance date of DHS Form 8493 (12/97), Course Completion Form, shall complete a minimum of seven contact hours of:
 - (1) General continuing education in order to be eligible to apply for inspector/assessor, project designer and/or project monitor certification or interim certification;
 - (2) General continuing education or continuing education for workers in order to be eligible to apply for supervisor certification or interim certification; or
 - (3) Continuing education for workers in order to be eligible to apply for worker certification.
- (c) Effective January 1, 1999, applicants failing to apply within three years from the issuance date of DHS Form 8493 (12/97), Course Completion Form, shall retake the appropriate DHS-Approved course to be eligible to apply for certification.
- (d) Applications for certification or interim certification renewal shall be submitted at least 120 calendar days prior to the expiration date indicated on the certificate or interim certificate.

Note: Authority cited: Sections 100275, 105250, and 124160, Health and Safety Code. Reference: Sections 100275, 105250, and 124160, Health and Safety Code

§35083. Inspector/Assessor.

To qualify for certification as a certified lead inspector/assessor, an individual shall comply with all applicable requirements specified in sections 35095 and 35096 and meet the following minimum eligibility requirements:

- (a) Possess DHS Form 8493 (12/97), Course Completion Form, from a lead-related construction inspection and assessment course; and
- (b) Pass the lead certification examination for inspector/assessors offered by the Department; and either:
 - (1) Have a bachelor's degree in biological, chemical, or physical science, or a related field and one year of experience in lead-related construction or a related field (e.g., asbestos, or environmental remediation work) conducting environmental inspections and assessing environmental health, occupational safety, or environmental hazards, or designing projects in environmental health, occupational safety, or environmental hazard reduction; or
 - (2) Have an associate degree in biological, chemical, or physical science, or a related field, or 20 semester or 30 quarter units in biological, chemical, or physical science, or a related field, and two years of experience in lead-related construction or a related field (e.g., asbestos, or environmental remediation work) conducting environmental inspections and assessing environmental health, occupational safety, or environmental hazards, or designing projects in environmental health, occupational safety, or environmental hazard reduction; or
 - (3) Have a high school diploma or equivalent and at least three years of experience in lead-related construction or a related field (e.g., asbestos, or environmental remediation work) conducting environmental inspections and assessing environmental health, occupational safety, or environmental hazards, or designing projects in environmental health, occupational safety, or environmental hazard reduction; or
 - (4) Be a certified industrial hygienist and possess DHS Form 8493 (12/97), Course Completion Form, from a lead-related construction Certified Industrial Hygienist course.

Note: Authority cited: Sections 100275, 105250, and 124160 Health and Safety Code. Reference: Sections 100275, 105250, and 124160, Health and Safety Code.

§35085. Supervisor.

To qualify for certification as a certified lead supervisor, an individual shall comply with all applicable requirements specified in sections 35095 and 35096 and meet the following minimum eligibility requirements:

- (a) Possess DHS Form 8493 (12/97), Course Completion Form, from a lead-related construction supervision and project monitoring course or possess DHS Forms 8493 (12/97), Course Completion Forms, from a lead-related construction work course and a lead-related construction supplemental supervision and project monitoring course; and
- (b) Pass the lead certification examination for supervisors offered by the Department; and either:
 - (1) Have one year of experience as a certified lead worker; or
 - (2) Have two years of experience in lead-related construction or a related field (e.g., asbestos, the building trades, or environmental remediation work) conducting environmental health, occupational safety, or environmental hazard control.

Note: Authority cited: Sections 100275, 105250, and 124160, Health and Safety Code. Reference: Sections 100275, 105250, and 124160, Health and Safety Code.

§35087. Project Monitor.

To qualify for certification as a certified lead project monitor, an individual shall comply with all applicable requirements specified in sections 35095 and 35096 and meet the following minimum eligibility requirements:

- (a) Possess DHS Form 8493 (12/97), Course Completion Form, from a lead-related construction supervision and project monitoring course or possess DHS Forms 8493 (12/97), Course Completion Forms, from a lead-related construction work course and a lead-related construction supplemental supervision and project monitoring course; and
- (b) Pass the lead certification examination for project monitors offered by the Department; and either:
 - (1) Have a bachelor's degree in biological, chemical, or physical science, or a related field and one year of experience in lead-related construction or a related field (e.g., asbestos, environmental

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remediation work) conducting or monitoring environmental health, occupational safety, or environmental hazards, or designing projects in environmental health, occupational safety, or environmental hazard reduction; or

- (2) Have an associate degree in biological, chemical, or physical science, or a related field, or 20 semester or 30 quarter units in biological, chemical, or physical science, or a related field and one year of experience as a certified lead supervisor or two years of experience in lead-related construction or a related field (e.g., asbestos, or environmental remediation work) conducting or monitoring environmental health, occupational safety, or environmental hazard reduction projects or designing projects in environmental health, occupational safety, or environmental hazard reduction; or
- (3) Have a high school diploma or equivalent plus two years experience as a certified lead supervisor, or three years of experience in lead-related construction or a related field (e.g., asbestos, or environmental remediation work) conducting or monitoring environmental health, occupational safety or environmental hazard reduction projects, or designing projects in environmental health, occupational safety, or environmental hazard reduction; or
- (4) Be a certified industrial hygienist and possess DHS Form 8493 (12/97), Course Completion Form, from a lead-related construction Certified Industrial Hygienist course.

Note: Authority cited: Sections 100275, 105250, and 124160, Health and Safety Code. Reference: Sections 100275, 105250, and 124160, Health and Safety Code.

§35089. Project Designer.

To qualify for certification as a certified lead project designer, an individual shall comply with all applicable requirements specified in sections 35095 and 35096 and meet the following minimum eligibility requirements:

- (a) Possess DHS Form 8493 (12/97), Course Completion Forms, from a lead-related construction supervision and project monitoring course issued within 3 years prior to the application date for certification as a project designer and from a lead-related construction project design course, or be a certified lead supervisor or certified lead project monitor and possess DHS Form 8493 (12/97), Course Completion Form, from a lead-related construction project design course; and
- (b) Pass the lead certification examination for project designers offered by the Department; and either:
 - (1) Have a bachelor's degree in engineering, architecture, or a related profession, and one year of experience in building construction and design or a related field; or
 - (2) Have an associate degree or higher in building construction, building design or a related field, or 20 semester or 30 quarter units in building construction, building design or a related field, and two years of experience in building construction and design or a related field; or
 - (3) Have a high school diploma or equivalent plus four years of experience in building construction and design or a related field; or
 - (4) Be a certified industrial hygienist and possess DHS Form 8493 (12/97), Course Completion Form, from a lead-related construction Certified Industrial Hygienist course.

Note: Authority cited: Sections 100275, 105250, and 124160, Health and Safety Code. Reference: Sections 100275, 105250, and 124160, Health and Safety Code.

§35091. Worker.

To qualify for certification as a certified lead worker, an individual shall comply with all applicable requirements specified in sections 35095 and 35096 and possess DHS Form 8493 (12/97), Course Completion Form, from a lead-related construction work course.

Note: Authority cited: Sections 100275, 105250, and 124160, Health and Safety Code. Reference: Sections 100275, 105250, and 124160, Health and Safety Code.

§35093. Interim Certification and Renewal.

- (a) Applications for interim certification shall be accepted through August 30, 1998. Applications for renewal of interim certification shall be accepted through December 31, 1998. Individuals who possess interim certificates with expiration dates after April 30, 1999 shall not be eligible to renew their interim certificate(s) and must take and pass the Department's certification examination to be eligible to apply for certification.

- (b) To qualify for interim certification as a lead inspector/assessor, an individual shall comply with all applicable requirements specified in sections 35083, 35095 and 35096, except for the certification examination requirements specified in subsection 35083(b).
- (c) To qualify for interim certification as a lead supervisor an individual shall comply with all applicable requirements specified in sections 35085, 35095 and 35096, except for the certification examination requirements specified in subsection 35085(b).
- (d) To qualify for interim certification as a lead project monitor an individual shall comply with all applicable requirements specified in sections 35087, 35095 and 35096, except for the certification examination requirements specified in subsection 35087(b).
- (e) To qualify for interim certification as a lead project designer an individual shall comply with all applicable requirements specified in sections 35089, 35095 and 35096, except for the certification examination requirements specified in subsection 35089(b).
- (f) Individuals failing to apply for renewal within one year after the expiration date of an interim certificate, shall comply with applicable subsections (b) of sections 35083, 35085, 35087, and 35089, and subsections 35095(b), and 35096(f)(1) to be eligible to apply for certification.

Note: Authority cited: Sections 100275, 105250, and 124160, Health and Safety Code. Reference: Sections 100275, 105250, and 124160, Health and Safety Code.

§35095. Application Requirements.

- (a) A complete application for certification or interim certification shall consist of a non-refundable \$75.00 application fee per certificate or interim certificate requested and a completed DHS Form 8488 (12/97), Application for Lead Certification, with required documentation:
 - (1) Type of certification or interim certification requested and amount of fee(s) paid:
 - (A) Certified lead inspector/assessor;
 - (B) Certified lead supervisor;
 - (C) Certified lead project designer;
 - (D) Certified lead project monitor; or
 - (E) Certified lead worker.
 - (2) Applicant's name, residence address, (and mailing address, if different), telephone number, date of birth, gender, race/ethnicity, and photo identification number with a description of the photo identification document.
 - (3) Documentation of applicant's education, training, and experience, including:
 - (A) Original Course Completion Form, DHS Form 8493 (12/97), for a course issued by an accredited training provider.
 - (B) A Proof of Experience DHS Form 8539 (12/97) for each employer providing documentation of completion of lead-related construction, or other applicable experience. Each Proof of Experience form shall contain:
 - 1. The applicant's name;
 - 2. The name and address of the applicant's employer;
 - 3. The name and telephone number of the applicant's supervisor, or the names and phone numbers of three client references, if self-employed;
 - 4. The applicant's employment dates;
 - 5. Descriptions of specific lead-related construction or other applicable activities performed;
 - 6. Estimated percentage of time associated with lead-related construction or other applicable activities; and
 - 7. The name, title, and signature of the applicant's supervisor or employer, or the applicant's signature, if self-employed, verifying, under penalty of perjury, that the information contained on the Proof of Experience DHS Form 8539 (12/97) is true and correct.
 - (C) Evidence of completion of postsecondary education, such as a copy of a transcript or diploma.
 - (D) Certified Industrial Hygienists, who possess a Course Completion Form from a lead-related construction Certified Industrial Hygienist course, may substitute a copy of their American

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Board of Industrial Hygiene Certificate, or its equivalent, for evidence of both experience and postsecondary education documentation.

(4) Two passport style, 1 inch by 1 inch, photographs.

(5) Applicant's signature and date signed, verifying, under penalty of perjury, that all information contained on and submitted with DHS Form 8488 (12/97), Application for Lead Certification, is true and correct.

(b) A complete application for certification or interim certification renewal shall consist of a completed DHS Form 8553 (12/97), Renewal of Lead Certification, and a non-refundable seventy-five dollar application fee for each certificate or interim certificate renewal requested with the following required documentation:

(1) If not submitted to the Department in the previous year, an original Course Completion Form DHS Form 8493 (12/97) issued by an accredited training provider for:

(A) General continuing education, if the application is for renewal of inspector/assessor, project designer, or project monitor certification or interim certification; or

(B) General continuing education or continuing education for workers, if the application is for renewal of supervisor certification or interim certification; or

(C) Continuing education for workers, if the application is for renewal of worker certification.

(2) Documentation specified in sections 35095(a)(2), and 35095(a)(5); and

(3) Certificate or interim certificate number(s), expiration date(s) and amounts of fee(s) paid.

(c) Certified or interim certified individuals shall notify the Department within 30 calendar days of a change of address.

Note: Authority cited: Sections 100275, 105250, and 124160, Health and Safety Code. Reference cited: Sections 100275, 105250, and 124160, Health and Safety Code.

§35096. Certification, Interim Certification, and Renewal Procedures.

(a) Within 30 calendar days of receipt of an application for certification, interim certification or renewal, the Department shall inform the applicant in writing that the application is either complete or incomplete and what additional information or documentation is required to complete the application.

(1) If an applicant submits required information or documentation within 30 180 days from the issuance date of the notice of incompleteness, the Department shall issue a written notice of completeness.

(2) If an applicant fails to submit required information or documentation within 180 days from the issuance date of the notice of incompleteness, the application shall be deemed to be abandoned and reapplication shall be required.

(3) An application may be withdrawn or amended only by written request to the Department.

(b) Within 60 calendar days from the issuance date of the notice of completeness, the Department shall grant or deny interim certification, renewal, or permission to sit for the Department's lead certification examination in the certification discipline applied for.

(1) If denied, the Department shall state, in writing, the reasons for denial.

(2) If granted, an interim certificate, renewal, or permission notice shall be sent to the applicant and the issuance date of the interim certificate, renewal, or permission notice shall be the effective date of interim certification, renewal, or permission notice.

(c) Within 30 calendar days from the date an individual passes the lead certification examination in the certification discipline applied for, the Department shall grant or deny certification.

(1) Individuals who fail to pass the lead certification examination in the certification discipline applied for within 180 days from the issuance date of the permission notice, shall retake the DHS-approved lead-related construction course in that discipline, and comply with Section 35095, excepting subsections 35095(a)(3)(B), 35095(a)(3)(C), 35095(a)(3)(D), and 35095(a)(4), to be eligible to re-apply for permission to sit for the lead certification examination.

(2) An individual shall take the lead certification examination no more than three times within 180 days of from the issuance date of the permission notice.

(d) Processing Time:

(1) Pursuant to the Permit Reform Act, Government Code section 15376, the minimum, median, and maximum elapsed time to process a completed application for a certificate or interim certificate and issue a written notification of approval shall be as follows:

- (A) Minimum: 15 calendar days.
- (B) Median: 120 calendar days.
- (C) Maximum: 270 calendar days.
- (2) The Department may exceed the maximum time as provided above if the applicant requests in writing a delay of consideration of the application or issuance of a certificate or interim certificate.
- (e) In making a determination of whether to grant, deny, or renew certification or interim certification, or permission to sit for a lead certification examination, the Department may take into consideration various factors, including, but not limited to, the following:
 - (1) Failure to satisfy eligibility requirements for certification or interim certification;
 - (2) Type and amount of lead-related construction training;
 - (3) Failure to provide further required documentation or information requested by the Department;
 - (4) Past history of citations or violations of existing regulations or standards;
 - (5) Past history of revocation of a Certificate or Interim Certificate; or
 - (6) False or misleading statements in the application.
- (f) Certification or interim certification shall be non-transferable and shall be effective for a period of one year.
 - (1) Effective May 1, 1998, certified or interim certified individuals shall complete a minimum of seven contact hours of continuing education instruction every two years to be eligible to apply for certification or interim certification renewal.
 - (2) Certified individuals applying for renewal more than three years after the expiration date of the certificate or interim certificate shall retake the required DHS-approved lead-related construction course and comply with section 35095(a)(3)(A), 35095(b) to be eligible to apply for certification renewal.

Note: Authority cited: Sections 100275, 105250, and 124160, Health and Safety Code. Reference: Sections 100275, 105250, and 124160, Health and Safety Code.

Article 14. Suspension or Revocation of Certification or Interim Certification.

§35097. Action to Suspend or Revoke Certification or Interim Certification.

- (a) Certification or interim certification may be suspended or revoked by the Department for:
 - (1) Any false statement in the application;
 - (2) Violations of relevant local, state, or federal statutes or regulations;
 - (3) Misrepresentation, failure to disclose relevant facts, fraud, or issuance by mistake;
 - (4) Failure to comply with California Code of Regulations, Title 17, sections 36000 or 36100; or
 - (5) Failure to comply with any relevant regulation or order of the Department.
- (b) Suspension or revocation and an appeal of any suspension or revocation shall be conducted in compliance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (c) Prior to suspension or revocation, a certified or interim certified individual shall be given an opportunity, except in the case of willful violation or threat to public health and safety, to remedy deficiencies that may result in suspension or revocation.
 - (1) The certified or interim certified individual shall be given a statement which includes the Department's findings, an explanation of what the certified or interim certified individual shall do to comply with the regulations, and the time period in which the certified or interim certified individual shall act.
 - (2) The certified or interim certified individual shall remedy the deficiencies within a reasonable time specified by the Department which shall be no more than 30 calendar days after the issuance date of the statement of deficiencies.
- (d) Any individual whose certification or interim certification has been suspended or revoked shall not be eligible to perform activities which require DHS lead certification.

Note: Authority cited: Sections 100275, 105250, and 124160, Health and Safety Code. Reference: Sections 100275, 105250, and 124160, Health and Safety Code.

Appendix VI-C

SUMMARY OF LEAD-BASED PAINT REQUIREMENTS BY ACTIVITY* – 24CFR PART 35

	<u>Rehabilitation</u> (Subpart J)			<u>Acquisition</u> (Subpart K)	<u>TBRA</u> (Subpart M)
	≤\$5,000 per unit	\$5,000 - \$25,000 per unit	>\$25,000 per unit		
Notification	Yes	Yes	Yes	Yes	Yes
Lead Hazard Evaluation	Paint Testing	Paint Testing and Risk Assessment	Paint Testing and Risk Assessment	Visual Assessment	Visual Assessment
Lead Hazard Reduction	Repair surfaces disturbed during rehabilitation	Interim Controls or Standard Treatments if lead-paint is presumed	Abatement (Interim Controls on exterior surfaces not disturbed by rehabilitation)	Paint Stabilization	Paint Stabilization
	Safe work practices Clearance of worksite	Safe work practices Clearance of affected areas	Safe work practices Clearance of affected areas	Safe work practices Clearance of affected areas	Safe work practices Clearance of affected areas
Ongoing Maintenance During Affordability Period	For HOME rentals only	For HOME rentals only	For HOME rentals only	For HOME rentals only	Yes
Elevated Blood-Led Level Requirements (EBLL)	No	No	No	No	Yes

*See HOME Contract Management Manual Lead Chapter (April 2001), and applicable regulations for more detail.

Appendix VI-D

SUMMARY OF LEAD TRAINING REQUIREMENTS		
<u>Activity</u>	<u>Training Required</u>	<u>Certification Required</u>
<u>Visual Assessments</u>	HUD Visual Assessment Training	NO
<u>Lead Hazard Evaluations</u>	Lead Related Construction Training (LRC)	<u>YES - DHS Certificate</u>
1) Paint Inspections Risk Assessments	DHS Inspector/Assessor Training	Inspector/Assessor Certificate
2) Clearance Examinations	DHS Inspector/Assessor Training	Inspector/Assessor Certificate
Interim Controls/Paint Stabilization	DHS lead Worker or Lead Supervisor Training <u>OR</u> OSHA Hazardous Communication Training with supervision by a certified Lead Supervisor <u>OR</u> OSHA Hazardous Communication Training, and HUD lead maintenance course	Lead Worker or Lead Supervisor Certificate (where necessary)
Abatement	Lead Related Construction Training (LRC)	<u>YES - DHS Certificate</u>
1) Lead Worker	Lead-Related Construction Training (LRC)	Lead Worker Certificate
2) Lead Supervisor	Lead Supervisor Training	Lead Supervisor Certificate

**HCD HOME Program
March 2001**

LEAD HAZARD EVALUATION REPORT**Section 1—Date of Lead Hazard Evaluation****Section 2—Type of Lead Hazard Evaluation (Check one box only)**

☐ Lead inspection ☐ Risk assessment ☐ Clearance inspection ☐ Other (specify) _____

Section 3—Structure Where Lead Hazard Evaluation Was Conducted

Address [number, street, apartment (if applicable)]	City	County	ZIP code
---	------	--------	----------

Construction date (year) of structure	Type of structure (check one box only) <input type="checkbox"/> Single family dwelling <input type="checkbox"/> Multi-unit building <input type="checkbox"/> Child-occupied facility <input type="checkbox"/> Other (specify) _____
---------------------------------------	--

Section 4—Owner of Structure (If business/agency, list contact person)

Name	Telephone number ()
------	------------------------------

Address [number, street, apartment (if applicable)]	City	State	ZIP code
---	------	-------	----------

Section 5—Results of Lead Hazard Evaluation (Check one box only)☐ **No lead-based paint detected.**

A lead inspection was conducted following the procedures outlined in Title 17, California Code of Regulations, Division 1, Chapter 8. No lead-based paint was detected during this lead inspection. This structure is found to be lead-based paint free.

☐ **No lead hazards detected.**

Lead hazard evaluation was conducted following the procedures outlined in Title 17, California Code of Regulations, Division 1, Chapter 8. No lead hazards were detected.

☐ **Lead-based paint and/or lead hazards detected.**


Lead hazard evaluation was conducted following the procedures outlined in Title 17, California Code of Regulations, Division 1, Chapter 8. Lead-based paint and/or lead hazards were detected.

Section 6—Individual Conducting Lead Hazard Evaluation

Name	Telephone number ()
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Address [number, street, apartment (if applicable)]	City	State	ZIP code
---	------	-------	----------

Brand name and serial number of any portable x-ray fluorescence (XRF) instrument used (if applicable)

DHS certification number	Signature 	Date
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Section 7—Attachments

- A. A foundation diagram or sketch of the structure indicating the specific locations of each lead hazard or presence of lead-based paint;
- B. Each testing method, device, and sampling procedure used;
- C. All data collected, including quality control data, laboratory results, including laboratory name, address, and phone number.

First copy and attachments retained by inspector

Second copy and attachments retained by owner

Third copy only (no attachments) mailed to:
Department of Health Services
Childhood Lead Poisoning Prevention Branch
Reports
1515 Clay Street, No. 1801
Oakland, CA 94612
FAX (510) 822-5002

ABATEMENT OF LEAD HAZARDS NOTIFICATION

Work is being conducted to abate lead-based paint or lead hazards in or on this structure. For more information, please contact the individuals and/or agencies listed below.

Section 1—Structure Where Abatement of Lead-Based Paint or Lead Hazards is Scheduled

Address (number, street, apartment number, if applicable)	City	County	ZIP code
---	------	--------	----------

Type of structure (check one box only)

☐ Single family dwelling ☐ Multi-family building ☐ Child-occupied facility ☐ Other (specify) _____

Section 2—Summary of Specific Work Areas Where Lead-Based Paint or Lead Hazards Will Be Abated**Section 3**

Projected starting date	Projected ending date
-------------------------	-----------------------

Section 4—Restrictions on Entering Work Area

List specific times and/or dates residents are not allowed to enter work areas, if applicable

If you would like more information, please contact the following:

Section 5—Owner

Name	Telephone number ()		
Address (number, street)	City	State	ZIP code

Section 6—Individual Conducting Abatement

Name	Telephone number ()	DHS certification number	
Address (number, street)	City	State	ZIP code

Section 7—Local Agency

Health Department Lead Program telephone number
()

Notification letter to be posted at all entrances to structure and mailed to the Department at:

Department of Health Services
Childhood Lead Poisoning Prevention Branch
Reports
1515 Clay Street, No. 1801
Oakland, CA 94612
FAX (510) 622-5002